

ESTTA Tracking number: **ESTTA488277**

Filing date: **08/09/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Sephora
Granted to Date of previous extension	08/15/2012
Address	65, avenue Edouard Vaillant Boulogne Billancourt, 92100 FRANCE
Attorney information	Kathleen E. McCarthy King & Spalding LLP 1185 Avenue of the Americas New York, NY 10036 UNITED STATES nytrademarks@kslaw.com, kmccarthy@kslaw.com, ebrown@kslaw.com

Applicant Information

Application No	85382594	Publication date	04/17/2012
Opposition Filing Date	08/09/2012	Opposition Period Ends	08/15/2012
Applicant	SPHERA STYLE LLC 16240 SW 21ST STREET MIRAMAR, FL 33027 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. First Use: 2012/02/21 First Use In Commerce: 2012/02/21
All goods and services in the class are opposed, namely: Hair conditioners; Hair lotions; Hair masks; Hair shampoo; Non-medicated hair treatment preparations for cosmetic purposes


Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)


Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	3738088	Application Date	03/10/2009
Registration Date	01/12/2010	Foreign Priority Date	NONE
Word Mark	NATURALLY SEPHORA INGREDIENTS OPTIONS RESULTS		


Design Mark	
Description of Mark	The mark consists of the stylized wording "NATURALLY SEPHORA INGREDIENTS OPTIONS RESULTS" in green on a white border around the design of a green and white flame over a solid green circle design, all surrounded by a green outer circle.
Goods/Services	Class 003. First use: First Use: 2009/02/15 First Use In Commerce: 2009/03/18 Cosmetics; hair shampoo; hair conditioners; hair styling preparations; hair care preparations; skin soap and cleansers; bath and shower gels; eye, facial and skin moisturizers, lotions and creams; essential oils for personal use; sunscreen; facial masks; body and facial scrubs; lip balm; body oils; bath salts; make-up remover; body deodorants Class 035. First use: First Use: 2009/02/15 First Use In Commerce: 2009/02/15 Retail store services in the field of cosmetics, beauty, skin and hair care products; providing consumer information in the field of cosmetics, beauty, skin and hair care products

U.S. Registration No.	2431968	Application Date	11/21/1997
Registration Date	02/27/2001	Foreign Priority Date	NONE
Word Mark	SEPHORA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1997/01/13 First Use In Commerce: 1998/07/16 [Perfumes; perfumery products, namely, colognes; toilet waters; essential oils for personal use, namely, bath oils, body oils, and massage oils; soaps, and cosmetics, namely, bath gels, bath powders, non-medicated bath salts, beauty masks, body creams, body powders, cosmetic pencils, cotton for cosmetic purposes, hand creams, night creams, skin cleansing creams, skin creams, vanishing creams, eye creams, skin lotions, facial lotions, body lotions, skin moisturizers, night creams, shower gels, skin clarifiers, skin soaps, suntanning preparations, toilet soaps; make-up products, namely, eye makeup, eye makeup		

	<p>remover, eye pencils, eye shadow, eyebrow pencils, eyeliner, face powder, lipstick, make-up mascara, nail polish, nail polish remover, rouge; hair lotions; hair shampoos]</p> <p>Class 035. First use: First Use: 1997/01/13 First Use In Commerce: 1998/07/16 [organizing and conducting trade show exhibitions in the field of perfumery and beauty care products;] retail store services in the field of perfumery, cosmetic products, beauty products, make-up products, hair lotions, preparations and shampoos</p> <p>Class 038. First use: First Use: 1996/12/21 First Use In Commerce: 1999/10/15 [transmission of data for others via a global computer network]</p> <p>Class 042. First use: First Use: 1997/01/13 First Use In Commerce: 1998/07/16 [consulting services in the field of perfumery and beauty products; beauty salons, hairdressing salons, tanning salons]</p>
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U.S. Registration No.	2431967	Application Date	11/21/1997
Registration Date	02/27/2001	Foreign Priority Date	NONE
Word Mark	SEPHORA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 1973/00/00 First Use In Commerce: 1998/07/16 [perfumes; perfumery products, namely, colognes; toilet waters;] essential oils for personal use, namely, [bath oils,] body oils [, and massage oils] ; [soaps, and] cosmetics, namely, bath gels, [bath powders,][non-medicated bath salts,] beauty masks, body creams, [body powders,] cosmetic pencils, cotton for cosmetic purposes, hand creams, [night creams,] skin cleansing creams, skin creams, vanishing creams, eye creams, skin lotions, facial lotions, body lotions, skin moisturizers, [night creams,] shower gels, skin clarifiers, [skin soaps,] suntanning preparations, [toilet soaps;] make-up products, namely, eye makeup, eye makeup remover, eye pencils, eye shadow, eyebrow pencils, eyeliner, face powder, lipstick, make-up mascara, nail polish, nail polish remover, rouge; [hair lotions;] hair shampoos</p> <p>Class 035. First use: First Use: 1973/00/00 First Use In Commerce: 1998/07/16 [organizing and conducting trade show exhibitions in the field of perfumery and beauty care products;] retail store services in the field of perfumery, cosmetic products, beauty products, make-up products, hair lotions, preparations and shampoos</p> <p>Class 038. First use: First Use: 1996/12/21 First Use In Commerce: 1999/10/15 [transmission of data for others via a global computer network]</p> <p>Class 042. First use: First Use: 1973/00/00 First Use In Commerce: 1998/07/16 consulting services in the field of perfumery and beauty products; [beauty</p>		

	salons, hairdressing salons, tanning salons]		
U.S. Registration No.	2770691	Application Date	02/20/2001
Registration Date	10/07/2003	Foreign Priority Date	NONE
Word Mark	SEPHORA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use: Leather and imitations of leather goods, namely, handbags, make up bags sold empty, vanity cases sold empty, [beach bags,] travel bags, [shoulder bags, coin purses; umbrellas; parasols]</p> <p>Class 025. First use: Clothing, namely, [bandanas, bandeaux, bathing caps, belts, blazers, blouses, bras, boxer shorts, cardigans, coats, rain coats, dresses, gloves, dressing gowns, hats, jackets, jeans, negligees, night gowns, pants, polo shirts, pullovers, scarves, shawls, shirts, shorts, skirts,] socks, [suits, sweat shirts, sweaters, tee-shirts, ties, tights, trousers,] turbans, [underpants,] headwear, [footwear]</p>		

U.S. Registration No.	3744176	Application Date	06/08/2009
Registration Date	02/02/2010	Foreign Priority Date	NONE
Word Mark	SEPHORA PURE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2009/03/10 First Use In Commerce: 2009/03/10 Cosmetics		

U.S. Registration No.	4054086	Application Date	12/22/2010
Registration Date	11/08/2011	Foreign Priority Date	NONE
Word Mark	SEPHORA HOT NOW		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2011/02/15 First Use In Commerce: 2011/02/15 Retail store and on-line retail store services featuring perfumery, cosmetics, make-up, skincare and beauty products and accessories, bath and body products and accessories, and hair care products, preparations and accessories		

U.S. Registration No.	4063917	Application Date	12/21/2009
Registration Date	11/29/2011	Foreign Priority Date	NONE
Word Mark	SEPHORA SKINCARE IQ		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2010/11/15 First Use In Commerce: 2010/11/15 Providing a searchable computer database featuring consumer information regarding beauty products and information to assist customers in selecting appropriate beauty products for specific purposes		

U.S. Registration No.	4029908	Application Date	11/02/2010
Registration Date	09/20/2011	Foreign Priority Date	NONE
Word Mark	TRANSFORMING BEAUTY SEPHORA		

Design Mark	TRANSFORMING BEAUTY SEPHORA
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2011/03/09 First Use In Commerce: 2011/03/09 Retail store and on-line retail store services featuring perfumery, cosmetics, make-up, skincare and beauty products and accessories, bath and body products and accessories, and hair care products, preparations and accessories

Attachments	77687114#TMSN.jpeg (1 page)(bytes) 75394578#TMSN.gif (1 page)(bytes) 75394577#TMSN.gif (1 page)(bytes) 76212530#TMSN.gif (1 page)(bytes) 77754119#TMSN.jpeg (1 page)(bytes) 85203959#TMSN.jpeg (1 page)(bytes) 77898029#TMSN.jpeg (1 page)(bytes) 85166836#TMSN.gif (1 page)(bytes) Opposition (SPHERA STYLE).pdf (10 pages)(237957 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Emily B. Brown/
Name	Emily B. Brown
Date	08/09/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

SEPHORA,)	
)	
Opposer,)	OPPOSITION NO.
)	
v.)	
)	
SPHERA STYLE LLC,)	_____
)	
Applicant.)	


OPPOSITION

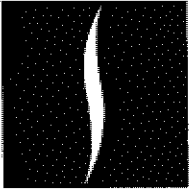
SEPHORA (“Opposer”) is a societe anonyme organized under the laws of France, whose business address is 65 avenue Edouard Vaillant, Boulogne, Billancourt, France 92100. Opposer believes it would be damaged by registration of the mark SPHERA STYLE (“Applicant’s Mark”) for “hair conditioners; hair lotions; hair masks; hair shampoo; non-medicated hair treatment preparations for cosmetic purposes” in International Class 3 (“Applicant’s Goods”), which mark is the subject of application Serial No. 85382594 (the “Application”), filed July 27, 2011, by Sphera Style LLC (“Applicant”) and published for opposition in the Official Gazette of April 17, 2012, and, by and through its undersigned attorneys, hereby opposes the same.

The grounds for this Opposition are as follows:

1. Opposer, including its predecessors-in-interest and its related and affiliated companies (hereinafter collectively referred to as “Opposer”), is now and has for many years been engaged in, inter alia, the perfume, skin care, cosmetics, hair care and beauty supplies and accessories business and in the operation of retail stores and an internet e-commerce website, all using the mark SEPHORA.

2. Opposer is the owner of all right, title, and interest in and to the SEPHORA mark in the U.S. and elsewhere, including a number of U.S. trademark registrations as shown in the chart below.

 SN:77-687114 RN:3,738,088	Registered January 12, 2010 First Use: February 15, 2009 In Commerce: March 18, 2009 Filed: March 10, 2009	(Int'l Class: 3) Cosmetics; hair shampoo; hair conditioners; hair styling preparations; hair care preparations; skin soap and cleansers; bath and shower gels; eye, facial and skin moisturizers, lotions and creams; essential oils for personal use; sunscreen; facial masks; body and facial scrubs; lip balm; body oils; bath salts; make-up remover; body deodorants (Int'l Class: 35) Retail store services in the field of cosmetics, beauty, skin and hair care products; providing consumer information in the field of cosmetics, beauty, skin and hair care products
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 S E P H O R A SN:75-394578 RN:2,431,968	Registered 8 & 9 March 7, 2011 Registered 8 & 15 September 26, 2007 First Use: December 21, 1996 In Commerce: October 15, 1999 Filed: November 21, 1997 Registered: February 27, 2001	(Int'l Class: 35) Retail store services in the field of perfumery, cosmetic products, beauty products, make-up products, hair lotions, preparations and shampoos
SEPHORA SN:75-394577 RN:2,431,967	Registered February 27, 2001 Section 8 & 15 September 12, 2007 First Use: 1973 In Commerce: July 16, 1998	(Int'l Class: 3) Essential oils for personal use, namely, bath oils, body oils, and massage oils; soaps, and cosmetics, namely, bath gels, non-medicated bath salts, beauty masks, body creams, cosmetic pencils, cotton for cosmetic purposes, hand creams, night creams, skin cleansing creams, skin creams, vanishing creams, eye creams, skin lotions, facial lotions, body lotions, skin moisturizers, shower gels, skin clarifiers, suntanning preparations, make-up products, namely, eye makeup, eye makeup remover, eye pencils, eye shadow, eyebrow pencils, eyeliner, face powder, lipstick, make-up mascara, nail polish, nail polish remover, rouge; hair shampoos (Int'l Class: 35) Retail store services in the field of perfumery, cosmetic products, beauty products, make-up products, hair lotions, preparations and shampoos (Int'l Class: 42) Consulting services in the field of perfumery and beauty products
SEPHORA SN:76-212530 RN:2,770,691	Registered October 7, 2003 Section 8 & 15 October 21, 2009	(Int'l Class: 18) Leather and imitations of leather goods, namely, handbags, make up bags sold empty, vanity cases sold empty, travel bags (Int'l Class: 25) Clothing, namely, socks, turbans, headwear

SEPHORA PURE S.N.: 77/754119 R.N.: 3,744,176	Registered February 2, 2010 First Use: March 10, 2009 In Commerce: March 10, 2009	(Int'l Class: 3) Cosmetics
SEPHORA HOT NOW S.N.: 85203959 R.N.: 4054086	Registered November 8, 2011 First Use: February 15, 2011 In Commerce: February 15, 2011	(Int'l Class: 35) Retail store and on-line retail store services featuring perfumery, cosmetics, make-up, skincare and beauty products and accessories, bath and body products and accessories, and hair care products, preparations and accessories
SEPHORA SKINCARE IQ S.N.: 77898029 R.N.: 4063917	Registered November 29, 2011 First Use: November 15, 2010 In Commerce: November 15, 2010	(Int'l Class: 35) Providing a searchable computer database featuring consumer information regarding beauty products and information to assist customers in selecting appropriate beauty products for specific purposes
TRANSFORMING BEAUTY SEPHORA S.N.: 85166836 R.N.: 4029908	Registered September 20, 2011 First Use: March 9, 2011 In Commerce: March 9, 2011	(Int'l Class: 35) Retail store and on-line retail store services featuring perfumery, cosmetics, make-up, skincare and beauty products and accessories, bath and body products and accessories, and hair care products, preparations and accessories

3. Said registrations are valid and enforceable. In addition, Registration Nos. 2,431,967, 2,431,968 and 2,770,691 are incontestable under Section 15 of the Lanham Act.

4. Opposer uses its SEPHORA mark in connection with a wide variety of goods and services. Opposer operates a large number of SEPHORA retail stores throughout the U.S. and throughout the world selling perfume,

cosmetics, hair, skin and beauty products and offering makeup, hair care, skincare and fragrance consultations. In addition, Opposer operates an active internet e-commerce website at www.sephora.com through which consumers can purchase said goods, provide their own reviews regarding products they have purchased, obtain information and recommendations, obtain beauty advice, and watch videos regarding beauty products and tips. The sephora.com website also includes a number of other features that attract interest and customers such as a blog and the SEPHORA beauty magazine.

5. Opposer's SEPHORA mark is inherently distinctive.
6. Opposer has promoted its SEPHORA mark extensively in its advertising and promotional materials.
7. By virtue of Opposer's distribution, sale, promotion, and advertising of products and services under its SEPHORA mark, Opposer's SEPHORA mark has become identified with high quality products and services originating with Opposer.
8. By virtue of Opposer's distribution, sale, promotion, and advertising of products and services under its SEPHORA mark, Opposer's SEPHORA mark has become famous and became famous prior to the filing date of Applicant's Application.

9. As a result of the long, widespread, and extensive use by Opposer of the SEPHORA mark, the SEPHORA mark has tremendous goodwill and is of great value to Opposer.

10. As a result of Opposer's extensive use of the SEPHORA mark, the SEPHORA mark has become well-known to consumers generally, enjoys widespread recognition, and is a famous and strong mark entitled to the broadest scope of protection.

11. Upon information and belief, no party other than Opposer owns or is using any federally-registered mark that is the same as or is substantially similar to Opposer's SEPHORA mark.

12. By the Application, Applicant seeks to register SPHERA STYLE as a mark for hair conditioners; hair lotions; hair masks; hair shampoo; and non-medicated hair treatment preparations for cosmetic purposes. The application claims a date of first use in commerce of February 21, 2012.

13. By virtue of its prior use and registrations, Opposer has rights in the mark SEPHORA prior and superior to any rights of Applicant in the mark that is the subject of the Application.

14. Opposer's SEPHORA mark is used and registered in connection with hair care products including hair lotions, preparations and shampoos, which goods are the same as or substantially similar to Applicant's Goods.

15. Upon information and belief, the types of consumers interested in or familiar with the goods and services on or in connection with which Opposer uses Opposer's SEPHORA mark overlap with those consumers interested in or familiar with the goods on and in connection with which Applicant uses Applicant's Mark.

16. Opposer's SEPHORA products and services and Applicant's Goods are offered to the same class of purchasers or capable of being offered to the same class of purchasers.

17. Opposer's SEPHORA products and services and Applicant's Goods are sold in the same channels of trade or capable of sale in the same channels of trade.

18. Upon information and belief, Applicant's Mark, in connection with Applicant's Goods, so resembles the SEPHORA mark as to be likely to cause confusion, or to cause mistake, or to deceive with respect to the source or origin of Applicant's Goods, with respect to Opposer's sponsorship thereof or connection or affiliation therewith, and/or in other ways.

19. Opposer's SEPHORA mark and the word SPHERA in Applicant's Mark are very similar in sound, connotation and appearance.

20. Applicant's Mark falsely suggests a connection or affiliation with Opposer and Applicant is therefore not entitled to registration of Applicant's Mark.

21. Opposer would be damaged by registration of Applicant's Mark because such registration would constitute prima facie evidence of Applicant's exclusive right to use Applicant's Mark for and in connection with Applicant's Goods, which would be inconsistent with and detrimental to Opposer's prior, established and superior rights in the SEPHORA mark.

22. Opposer's SEPHORA mark is a famous mark within the meaning of Section 43(c) of the Lanham Trademark Act, and Applicant's Mark for Applicant's Goods is likely to dilute the distinctive quality of Opposer's SEPHORA mark in violation of Section 43(c).

23. By reason of the foregoing facts, Opposer believes it will be irreparably damaged by the registration of Applicant's Mark.

PRAYER FOR RELIEF

WHEREFORE, Opposer respectfully prays that the subject application be refused, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Respectfully submitted,
KING & SPALDING LLP

/Kathleen E. McCarthy/
Kathleen E. McCarthy

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kmccarthy@kslaw.com


Attorneys for Opposer SEPHORA

CERTIFICATE OF SERVICE

This is to certify, in accordance with the Trademark Rules of Practice, that I have this day served the foregoing document on the Applicant, by causing a true and correct copy thereof to be deposited in the United States Mail, postage prepaid, addressed to the correspondent of record for the Applicant as indicated in the USPTO TARR database as follows:

Juliet Alcoba
Alcoba & Associates, P.A.
211
3399 NW 72 Avenue
Miami FL 33122

This 9th day of August, 2012.


Emily B. Brown